

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

MICHAEL DUETT,

Petitioner,

: Case No. 1:19-cv-725

- vs -

District Judge William O. Bertelsman
Magistrate Judge Michael R. Merz

WARDEN,

Noble Correctional Institution,

:

Respondent.

**REPORT AND RECOMMENDATIONS ON MOTION TO AMEND
THE JUDGMENT**

This habeas corpus case is before the Court on Respondent's Motion to Alter the Judgment under Fed.R.Civ.P. 59(e)(ECF No. 19). The Motion was filed within the time allowed by that Rule.

The Motion points out that District Judge Bertelsman adopted the Magistrate Judge's Report and Recommendations (ECF No. 12) and Supplemental Report and Recommendations (ECF No. 15), both of which recommended that the Petition be dismissed with prejudice. However, the Clerk has entered a judgment which dismisses the Petition without prejudice. The Magistrate Judge attributes the difference to a clerical error and respectfully recommends that the Motion be granted and an amended judgment be entered dismissing the Petition with prejudice.

The amended judgment should also reflect that Judge Bertelsman has denied a certificate of appealability and certified that an appeal would not be taken in good faith.

October 29, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal.